

TESTIMONY OF BILL ALLAYAUD, DIRECTOR, SIERRA CLUB CALIFORNIA
CALIFORNIA PERFORMANCE REVIEW COMMISSION
CSU FRESNO - SEPTEMBER 17, 2004

I am thankful for the opportunity to address the CPR Commission on this important matter. Our staff in Sacramento represents 13 chapters and over 200,000 Sierra Club members in California before the Legislature and the Governor's office and the executive agencies. The Sierra Club is a member-driven organization and the interests of our membership extend across the range of CPR recommendations.

The Sierra Club, along with many other environmental organizations in California will submit written comments on the entire CPR document by the end of September. Today, my testimony will be restricted to a few of the key recommendations in the report relating to environmental regulation. But before I discuss those items, I would like to make a few general comments.

First, we appreciate the effort that went into preparing the report. The team was obviously dedicated and deserves thanks for taking this effort on. My initial remarks may duplicate somewhat those of previous speakers, but these are extremely important aspects of the CPR process and report that must be emphasized as you move forward and Governor Schwarzenegger decides a course of action.

A major theme of the CPR effort was to make California government more efficient. We are in favor of finding more efficient ways for our State agencies to exercise their responsibilities because that can mean more efficient environmental protection. Accordingly, Sierra Club California finds a number of the recommendations in the CPR report to be good ones. However, we are very concerned that too often that theme has been played out with a bias towards the private sector and those who seek permits to discharge pollutants into our air, water, and land.

A key point that is missed by the CPR is that many of the agencies scrutinized in the report are seriously understaffed or under funded for carrying out their mandate. If there are cost-savings that result from any reorganizations that occur, we believe that the State's first priority should be to put those saving back into the agencies where needed. Enforcement is an obvious area. For example, it is our understanding that the Central Valley Regional Water Quality Control Board has two staff persons assigned to inspect all the dairy farms in the Central Valley. This exploding industry, with its air and water pollution impacts, needs more oversight.

The CPR seems to lack focus on the public as "customer", the average citizen who wants clean air and water and habitats preserved. If we are to undertake a major reorganization of Cal/EPA, we must keep in mind one of the six primary reasons for creating this agency in the first place. Governor Wilson's Reorganization Plan Number 1 (1992) stated:

The regulatory decision making process must be opened as far as possible to the public as a whole...

Recommendations in CPR such as those to eliminate the Air Resources Board and the State and Regional Water Boards are counter to the original purpose of creating Cal/EPA.

Furthermore, we find that the rationale behind eliminating many of the boards and commission is so superficial as to be slighting to the good work these agencies have done over the years for Californians' health and environment. To recommend elimination of the Air Board with a simple "eliminate the Board because it is not needed to oversee air quality regulatory functions" is beyond inadequate. Where is the analysis of what this Board has accomplished and if those accomplishments could have been achieved inside an agency without a significant public interface?

We think the CPR Commission, and we also urge Governor Schwarzenegger to adopt the same stance, should re-emphasize that customer service is first and foremost serving the average citizen, not serving permittees. An examination of our environmental protection laws will indicate that the thrust of these statutes is to protect public health and our natural resources, not to ensure low overhead for polluting industries.

COMMENTS ON SPECIFIC RECOMMENDATIONS

RES01: A single point of contact at Cal/EPA for the public is a good idea, but this recommendation is geared primarily towards helping businesses comply with regulations. What about helping people seeking enforcement of the law because a business is polluting a community? This recommendation reveals the previously mentioned bias toward seeing permittees, rather than the public, as Cal/EPA's "customers." We should be putting people first, not polluters. How would this reorganization affect the general public?

RES02: Consolidation of cleanup, spill prevention, etc. is laudable, but whose rules apply? DTSC's regulations better facilitate public participation. Savings that could be accomplished by this reorganization should not be lost, but should be applied towards more cleanups. This is the logical place to put DHS' Rad Branch rad cleanups.

INF31: We oppose the recommendation to take approval of school-site cleanups away from Cal/EPA and move it to the State and Consumer Services Agency. The schools program has been a success story at Department of Toxic Substances Control, so it makes no sense to remove it to an agency that has no experience with cleanups. This recommendation is a recipe for disaster, as schools could be built on contaminated sites.

RES03: Consolidation of waste programs is a good idea. Moving radwaste to Cal/EPA makes sense, but it's important to put rad cleanups in the new consolidated cleanup program, and not to use consolidation as an excuse for dumping radwaste in landfills permitted only for solid or chemical wastes or for dumping hazardous wastes in landfills designed only for solid wastes.

RES04: Consolidation of pollution prevention programs is a very good idea, and the proposed new name gives new priority to pollution prevention. However, we believe the pollution prevention program should be put in a separate division from waste management.

*RES05: We support the transfer of structural pest control functions to DPR. The separation of this function from DPR has prevented needed controls on pesticide applicators around buildings—which may be one of the most significant sources of the insecticides that are causing widespread toxicity in urban runoff and urban surface waters. However, we do not believe that the Structural Pest Control Board itself should be eliminated *unless* a similar board is created at DPR.*

RES07: We support reducing overhead costs in order to increase spending on environmental programs like cleanups and enforcement, as long as the quality of work does not suffer. Consolidation of administrative functions like personnel management, accounting, and budgeting makes sense. But important substantive functions like legal counsel should remain separate, because the Water Board needs counsel with expertise in water laws, the Air Board in air laws, etc.

RES15: Using new technology to streamline the CEQA process is strongly supported. This is a recommendation that will help permittees, the general public, and public agencies. Having this database readily available will help decision-makers at all levels, will give the average citizen access to data normally not available, and will help applicants save costs and make better planning decisions.

RES16: We support the proposal to allow DPR to rely upon any data on file, regardless of data ownership, when considering pesticide registration. We oppose reducing efficacy requirements. Many pesticides are not effective at killing pests but end up being toxic pollutants released into the environment. A strong efficacy requirement would keep useless products from ever being registered, and would therefore reduce useless pollution.

RES20: We support consolidating hazardous materials and hazardous waste regulatory responsibilities at Cal/EPA because Office of Emergency Services is not a regulatory enforcement agency, while Cal/EPA has experience overseeing regulatory programs.